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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,195	03/29/2001	Timothy C. Loose	47079-00086	4522
30223	7590	03/29/2006	EXAMINER	
JENKENS & GILCHRIST, P.C. 225 WEST WASHINGTON SUITE 2600 CHICAGO, IL 60606			MOSSER, ROBERT E	
			ART UNIT	PAPER NUMBER
			3712	

DATE MAILED: 03/29/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Advisory Action  
Before the Filing of an Appeal Brief**

**Application No.**

09/821,195

**Applicant(s)**

LOOSE ET AL.

**Examiner**

Robert Mosser

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**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 10 March 2006 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires \_\_\_\_\_ months from the mailing date of the final rejection.  
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s).  
13. ☐ Other: \_\_\_\_\_.

  
**XUAN M. THAI**

**ADVISORY PATENT EXAMINER**

**Continuation of 11**

A. Applicant asserts that the Finality of the office action dated January 10<sup>th</sup> was improper

i. The criteria for making a first action final is set forth in MPEP 706.07(b).

**706.07(b) [R-1] Final Rejection, When Proper on First Action**

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are drawn to the same invention claimed in the earlier application, and (2) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.

The applicant's arguments suggesting that the presentation of new claim limitations would necessitate a Non-Final office action (See page 4 of Applicant's remarks dated March 10<sup>th</sup>, 2006) are improper as the introduction of new claim limitations per se is not a consideration under the basis of finality set forth in MPEP 706.07(b). As the applicant has not set forth challenges to the finality based on the rule as applied the Finality of the rejection is maintained.

B. Applicant Challenges the combination of Saffari and Bruzzese on multiple grounds

i) The applicant suggests the combination of Saffari and Bruzzese fails to teach "a unitary touch screen overlapping both said video portion and said non-video portion" (See pages 5-6 of Applicant's remarks dated March 10<sup>th</sup>, 2006).

Bruzzese teaches a unitary touch screen 34 overlapping both static graphical transfer (Elm 36) held equivalent to non-video portion of the display as well as a reel portion of the display. Wherein the reel portion of the display is additionally taught by Bruzzese as being a video display (Bruzzese Col 1:25-36). Hence Bruzzese teaches a unitary touch screen covering a video and non-video portion thereby providing the claimed feature of "a unitary touch screen overlapping both said video portion and said non-video portion".

ii) The applicant suggests the combination of Saffari and Bruzzese lacks a motivation to combine within the references themselves.

The prior art of Bruzzese teaches the inclusion of a unitary touch screen over a video and non-video portion wherein in the non-video portion represents a series of indicia buttons (Bruzzese Figures 3-4) and thus serves as a teaching to extend the already present touch screen of Saffari past the video portion and replace a series of mechanical switches with a touch screen equivalent for the purpose of reducing the manufacturing cost as taught by Bruzzese (Bruzzese Col 2:14-24).

iii) The applicant suggests the combination of Saffari explicitly teaches using "either" a touch screen buttons or permanent buttons.

Upon review of Saffari teaches the incorporate of many types of input devices (Col 2:64-66) and moreover includes the use of a start button (Elm 208)

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not shown of the figures demonstrating only the touch screen display and button regions associated therewith (Figures 3 & 5). Additionally element 316 of Saffari is directed to a credit meter for indicating how many credits or winnings have been accumulated thus far (Col 2:45-49), such a meter would inherently also require a manner to input a request to cash out, noted as additionally not present in the figures of Saffari. As these buttons or input are not otherwise demonstrated on the touch screen display the positioning of such elements would seem to be at the very least implicit on remaining portion of the machine/device.

In addition to the above, an alternative arrangement as suggest by applicant, when considered alone or in combination with the different types of input devices of Saffari (Col 2:64-66) would suggest that a touch screen, a button panel, and/or a touch screen button panel are interchangeable as an input means.

iv) The applicant suggests there might be "better" ways to reduce the cost of manufacture taught by Bruzzese.

Regardless of whether or not there is a ideal (even better) means to accomplish a specific task a teaching regarding a known improvement over a previous means still presents a teaching and motivation for the alteration of the prior art.

v) The applicant suggests that the combination of Bruzzese and Saffari would only result in a unitary touch screen that covers a video portion in Bruzzese that is disclosed in Bruzzese as not including a randomly selected outcome (See page 6 of Applicant's remarks dated March 10<sup>th</sup>, 2006).

As addressed above in section B.II Bruzzese teaches the use of a video display of the reel game and therefore demonstrates a unitary touch screen presented across both a video portion with a random outcome and a non-video portion of a gaming machine.

vi) Applicant's arguments presented on page 7 of Applicant's remarks dated March 10<sup>th</sup>, 2006 are premised on the preceding arguments addressed above and fall in kind for their reliance thereon.

C Applicant Challenges the pending rejections of claim 11.

i) The applicant's re assert their belief that Bridgeman does not teach a plurality of light circuits as alleged by the Examiner (See page 8 of Applicant's remarks dated March 10<sup>th</sup>, 2006).

Applicant's suggestions that Bridgeman teaches on singular light circuit fail to address the supporting evidence provided by the examiner.

"A drive circuit 226 controls the light circuits 238 that light up the buttons to indicate the key activators 236 are ready to accept input

data.” (Bridgeman Col 5:68-6:2) - Noted as cited by the applicant on page 8 of 9 in Applicant’s remarks dated March 10<sup>th</sup>, 2006.

While the evidence provided by the Applicant does support the inclusion of at least one light circuit no limiting description in the Applicant’s references to Bridgeman would limit the circuit to only one light circuit as suggested by the applicant.

ii) Applicant alleges that the lights of Bridgeman must light up all at once regardless the number of control circuits.

The passage of Bridgeman cited above indicates that the light circuits light up the button to indicate that the buttons are ready to accept input (‘buttons = activators’ Bridgeman Col 4:10) while additionally setting forth in Figure 4 that button inputs (Bet, Deal, Freeze, Zap) are only available at certain portions of the game. Following the chart shown in Figure 4 at any given point the player has the opportunity to activate one of the four main buttons with the Deal, Freeze, and Zap button for use during game play and a Bet button for use outside of game play (the selection of the initial wager) as set forth by Bridgeman (Col 4:30-34). Hence with the button use temporally and respectively limited by game state as well as the teaching by Bridgeman that the buttons are illuminated when they are ready to accept input Bridgeman sets forth the illumination of the buttons separately and independently according to game play. If applicant contends otherwise they would be in essence suggesting that Bridgeman illuminates all the

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buttons at anytime the machine can receive a input that would otherwise contradict the operational diagram shown in figure 4 as well as statements including Bridgeman's description of exclusive button functions (Bridgeman Col 5:6-13).

Placed in an alternative light, if at least one button input was available to the player during every state of game play, the buttons would always be accordingly lit and accordingly indicate nothing. This would be in contradiction to purpose of indicating taught by Bridgeman (Bridgeman Col 5:68-6:2).

iii) Applicant alleges that there is insufficient motivation to combine Bridgeman with Saffari and Bruzzese.

The motivation indicated in the final office action of January 10<sup>th</sup>, 2006 was taken directly from Bridgeman.

"A drive circuit 226 controls the light circuits 238 that light up the buttons to indicate the key activators 236 are ready to accept input data." (Bridgeman Col 5:68-6:2) -

  
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*TC3702*